

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**BOARD OF COUNTY COMMISSIONERS
of CATRON COUNTY, NEW MEXICO,**

Plaintiff,

v.

No. CIV 12-0237 CG/LAM

UNITED STATES OF AMERICA, et al.,

Defendants.

**ORDER GRANTING MOTION TO SERVE SUMMONS AND
COMPLAINT BY PUBLICATION**

THIS MATTER comes before the Court on Plaintiff's *Motion for Leave to Serve Summons and Complaint by Publication and Request for Extension of Time to Serve Summons and Complaint* (Doc. 28), filed June 11, 2012. Plaintiff states that the motion is not opposed by those Defendants who have entered appearances in the case. Having considered the motion, record of the case, and relevant law, the Court **FINDS** that the motion is well-taken and shall be **GRANTED**.

This is a quiet title action which was initiated on March 7, 2012. *See [Doc. 1]*. In its motion, Plaintiff seeks leave from the Court to serve "All Unknown Persons Claiming an Interest in the Property" via publication in a local paper for no less than once a week for six (6) consecutive weeks pursuant to 28 U.S.C. § 1655. [*Doc. 28 at 2*]. Plaintiff states that the 120-day time frame within which to serve defendants under Fed. R. Civ. P. 4(m) will expire on July 5, 2012, which is past the six-week time period for service by publication, so Plaintiff also asks the Court for an extension of that deadline. *Id.*

Pursuant to 28 U.S.C. § 1655, the Court may order any absent defendants to appear in this action. However, where personal service is not practicable, the Court's order to appear must be

published for a minimum of six weeks before such service shall be deemed valid. 28 U.S.C. § 1655. The Court finds that personal service is not practicable on all persons claiming an interest in the property since they are currently unknown. The Court, therefore, will allow service by publication pursuant to 28 U.S.C. § 1655, starting no later than **Monday, June 18, 2012**, and running not less than once a week for six consecutive weeks. Those persons claiming an interest in the property must enter an appearance in this case within thirty (30) days after the final publication of this Order, or no later than **Wednesday August 29, 2012**. In addition, in order to allow sufficient time for service pursuant to 28 U.S.C. § 1655, the Court will allow an extension of the service deadline under Fed. R. Civ. P. 4(m) for the six-week publication time period to be completed.

IT IS THEREFORE ORDERED that Plaintiff's *Motion for Leave to Serve Summons and Complaint by Publication and Request for Extension of Time to Serve Summons and Complaint* (Doc. 28) is **GRANTED**;

IT IS FURTHER ORDERED that Plaintiff shall publish this Order in a newspaper of general circulation in the county wherein the property is located, starting *no later than Monday, June 18, 2012*, for not less than once a week for six (6) consecutive weeks;

IT IS FURTHER ORDERED that those persons claiming an interest in the property must enter an appearance in this case **within thirty (30) days** after the final publication of this Order, or no later than **Wednesday August 29, 2012**;

IT IS FURTHER ORDERED that, if the unknown defendants fail to appear within the time allowed, the Court shall proceed as if the absent defendants had been served with process within the State of New Mexico, but affecting only the property which is the subject of this action; and

IT IS FURTHER ORDERED that the 120-day service deadline is extended as to the unknown defendants only for the six-week publication time period to be completed.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE